

OFFICIAL ROUTING SLIP

TO	NAME AND ADDRESS	DATE	INITIALS
1	The Director		
2			
3			
4			
5			
6			

ACTION	DIRECT REPLY	PREPARE REPLY
APPROVAL	DISPATCH	RECOMMENDATION
COMMENT	FILE	RETURN
CONCURRENCE	INFORMATION	SIGNATURE

Remarks: Dick: Attached is some information which might be helpful in persuading those involved that legislation is not needed for Bob Cushman's promotion. I am not optimistic, however, as the Department of Defense is pretty well dug in. Maybe a little work with the staff on the Hill from Jack's office could help. If legislation is needed, I think it should be something in the Department of Defense statute, as I would be reluctant to see our section of the National Security Act come up for any congressional action at this time.

LRHouston

FOLD HERE TO RETURN TO SENDER

FROM: NAME, ADDRESS AND PHONE NO.	DATE
General Counsel	3/3/71

UNCLASSIFIED	CONFIDENTIAL	SECRET
--------------	--------------	--------

FORM NO. 237 Use previous editions

25X1

EYES ONLY

OGC 71-0323

3 March 1971

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: Generals of the Marine Corps

1. This memorandum is for your information.

2. Officers of full General rank in the Army, Navy, or the Air Force are limited by number as a percentage of other officers prescribed for under various circumstances. Consequently, we had language put in the National Security Act that the rank or grade of any commissioned officer during the time he occupies the office of Director of Central Intelligence or Deputy Director of Central Intelligence shall be in addition to the numbers and percentages otherwise authorized and appropriated to the armed service of which he is a member. Under this provision we had no problem with General Cabell's promotion to four star rank while he was DDCI.

3. The Marine Corps limits to two the number of officers in the grade of Lieutenant General, except in time of war or national emergency, and in those circumstances puts on a further number limitation by percentage. However, the Commandant of the Marine Corps, while so serving, has by law the rank of General. The Assistant Commandant, while so serving, has the grade of General at the discretion of the President, by and with the advice and consent of the Senate. It is further provided that an officer of the Marine Corps assigned as Chief of Staff to the President shall be appointed by the President, by and with the advice and consent of the Senate, to the grade of General. There are, therefore, three General officer positions provided for in the Marine Corps and no specific limitation by number.

EYES ONLY

EYES ONLY

4. A good case can be made that there is no prohibition for promotion of the DDCI to General rank in the Marine Corps. Furthermore, as DDCI he is subject to no supervision, control, restriction, or prohibition, military or otherwise, other than would be operative if he were a civilian in no way connected with the service. Simultaneously, he does not have any supervision, control, powers, or functions with respect to the armed services. The law states that his appointment as DDCI shall in no way affect any status, office, rank, or grade he may occupy in the armed services, or any emolument relating thereto, and that he shall continue to hold rank and grade "not lower" than that in which serving at the time of his appointment. He is to receive the military pay and allowances for an officer of his grade and length of service, but it should be noted that the department concerned will be reimbursed by CIA. In addition, CIA will pay him any differences between his military pay and allowances and the salary established for the DDCI.

5. It would seem a good argument could be made on the basis of the foregoing that the President could appoint the DDCI to four star rank. Certainly, there seems to be no statutory prohibition, although admittedly there is no specific statutory authorization. At this moment, however, the Department of Defense still believes that legislation is required.

STAT



LAWRENCE R. HOUSTON
General Counsel

Attachment

cc: DDCI
Executive Director
OLC



STAT

EYES ONLY

STATUTORY CITATIONS

Marine Corps Commandant - 10 U. S. C. A. 5201

Assistant Commandant - 10 U. S. C. A. 5202

Marine Corps Generals and Lieutenant Generals -
10 U. S. C. A. 5232

Commissioned Officer as Deputy Director of
Central Intelligence - section 102(b) of the
National Security Act of 1947, as amended

UNCLASSIFIED	CONFIDENTIAL	SECRET	
OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	DATE	INITIALS
1	OLC		<i>[Signature]</i>
2			
3			
4			
5			
6			
ACTION		DIRECT REPLY	PREPARE REPLY
APPROVAL		DISPATCH	RECOMMENDATION
COMMENT		FILE	RETURN
CONCURRENCE		INFORMATION	SIGNATURE
Remarks: <div style="text-align: center; font-style: italic; font-size: 1.2em;">Customer file</div>			
FOLD HERE TO RETURN TO SENDER			
FROM: NAME, ADDRESS AND PHONE NO.			DATE